

Applicant: Henderson et al.  
Application Serial No.: 09/994,551  
Filing Date: November 27, 2001  
Docket No.: 760-99  
Page 11

### REMARKS

Reconsideration of the application as amended is respectfully requested.

Claims 1-5, 12, 13, 18-20 and 57 are in the application. New claim 57, depending from claim 1, has been added. To avoid additional claims fees, claim 56 has been cancelled. In addition, claims 6-11, 14-17 and 21-55 have been withdrawn in view of a previous election.

In the Office Action, claim 5 is only rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Phan et al. (U.S. Patent No. 5,129,910). As acknowledged by the Examiner, "Phan et al. disclose a stent device 1".

It is respectfully submitted that Phan et al. does not disclose an arterio-venous shunt graft as claimed. Accordingly, with claim 5 only being rejected on a basis of Phan et al., it is respectfully submitted that claim 5 is allowable.

Phan et al. is directed to a stone expulsion stent. In particular, the Phan et al. device is "useful for the removal of masses from a body passage." (col. 4, lines 6-7). The device includes a tubular body having a helical-like ridge disposed at least about a portion thereof. (col. 5, lines 11-13). The ridge acts to remove stones from a patient, such as from the kidney. (See e.g., col.

Applicant: Henderson et al.  
Application Serial No.: 09/994,551  
Filing Date: November 27, 2001  
Docket No.: 760-99  
Page 12

8, lines 8-31). There is no disclosure or suggestion in Phan et al. of a graft structure, much less an arterio-venous shunt graft structure.

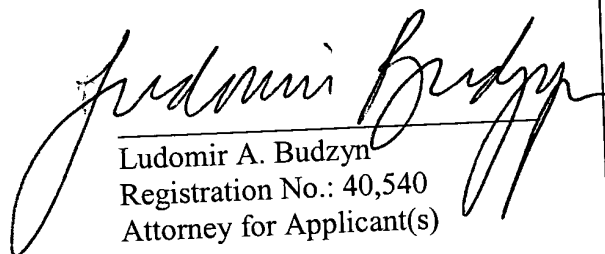
Claim 1, from which claim 5 depends, is directed to an arterio-venous shunt graft. As indicated above, there is no disclosure or suggestion whatsoever in Phan et al. of a graft, much less an arterio-venous shunt graft. See, MPEP §2111.02. With claim 5 only being rejected in view of Phan et al., it is respectfully submitted that claim 5 is allowable.

In addition, new claim 57 provides an additional basis of patentability. The three references applied in the Office Action, namely Phan et al., Kalis (U.S. Patent No. 5,609,624), and Knapp et al. (U.S. Patent No. 5,984,965), do not disclose or suggest an arterio-venous shunt graft. Claim 57 specifically indicates that one end of the tubular body of the graft is formed larger than a second end. As explained at Applicants' specification at page 5, an arterial end of the graft may have a smaller cross-sectional area than a venous end to limit the amount of blood flow diverted therethrough from the corresponding artery. None of the cited references are concerned with forming a shunt between an artery and a vein, as is the subject invention. It is respectfully submitted that claim 57 is patentable.

Applicant: Henderson et al.  
Application Serial No.: 09/994,551  
Filing Date: November 27, 2001  
Docket No.: 760-99  
Page 13

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the telephone number listed below.

Respectfully submitted,

  
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